

By: Ellis S.B. No. 992
(In the Senate - Filed March 4, 2005; March 14, 2005, read first time and referred to Committee on Criminal Justice; April 29, 2005, reported favorably by the following vote: Yeas 7, Nays 0; April 29, 2005, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to the forfeiture of certain contraband used in the commission of certain felony intoxication offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and Section 3, Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; ~~[or]~~

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code; ~~[or]~~

(vii) any felony under Chapter 31, 32, or 37, Penal Code, that involves the state Medicaid program, or any felony under Chapter 36, Human Resources Code; or

(viii) ~~[(vii)]~~ a Class B misdemeanor under Section 35.60 ~~[35.58]~~, Business & Commerce Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) ~~[(B)(vii)]~~ of this subdivision, or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) ~~[(B)(vii)]~~ of this subdivision, or a crime of violence.

SECTION 2. Chapter 704, Transportation Code, is repealed.

SECTION 3. The change in law made by this Act applies only to the forfeiture of contraband used in the commission of an offense under Chapter 49, Penal Code, on or after the effective date of this Act. Forfeiture of contraband used in the commission of an offense under Chapter 49, Penal Code, before the effective date of this Act is covered by the law in effect when the offense was committed, and

2-1 the former law is continued in effect for that purpose. For purposes
2-2 of this section, an offense was committed before the effective date
2-3 of this Act if any element of the offense was committed before that
2-4 date.

2-5 SECTION 4. This Act takes effect September 1, 2005.

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